

Agricultural; milk production testing. A nonprofit organization of dairy farmers, a member of the National Cooperative Dairy Herd improvement Program sponsored by the U.S. Department of Agriculture, that derives its income from testing fees and membership assessments and that weighs and tests milk of members' cows and makes statistical information based on the tests available to members, nonmembers, and governmental agencies for use in improving milk production is exempt as an agricultural organization; Rev. Rul. 70-372 clarified and distinguished.

Advice has been requested whether the nonprofit organization described below qualifies for exemption from Federal income tax under section 501(c)(5) of the Internal Revenue Code of 1954.

The organization is a local association of dairy farmers that takes part in the National Cooperative Dairy Herd Improvement Program sponsored by the U.S. Department of Agriculture. Associations participating in this program periodically weigh and test the milk of their members' cows under uniform rules and supervision. Comparable statistical information based on the tests is made available to national, state, and local governmental agencies.

The association sends the data it collect to a private computer center which processes the data and compiles a statistical analysis of each farmer's milk production. The computer center sends the results to the dairyman from whom the information was collected, to the tester hired by the association, to the local extension agent, to the state dairy herd improvement association, and to the U.S. Department of Agriculture Computer Center.

Government agencies use the data to compile statistical information for research and education and for use by extension agents in rendering advice to farmers. The individual dairy farmer uses the test results sent to him to measure the productivity of his cattle. This enables him to cull his herd for maximum efficiency in current production and select the best animals for breeding so as to increase future production. Government agencies publish detailed reports on the testing program and its results. This permits dairy farmers not enrolled in a local association to use the information for breeding and comparing present productivity. Extension agents use the statistical information developed by the program in rendering advice to all dairy farmers whether or not they are enrolled in a local association.

The organization derives its income from testing fees and membership assessments. Disbursements are for reasonable salaries, fees for the data processing service, and miscellaneous costs of administration.

Section 501(c)(5) of the Code provides for the exemption from Federal income tax of labor, agricultural, or horticultural organizations.

Section 1.501(c)(5)-1 of the Income Tax Regulations provides that the organizations listed in section 501(c)(5) of the Code are entitled to exemption if they have as their objectives the betterment of the conditions of those engaged in such pursuits, the improvement of the grade of their products, and the development of a higher degree of efficiency in their respective occupations.

This association is an integral and necessary part of a nationwide program to improve milk production and improve the grade of dairy products. Since the data from the testing is made available to all dairy farmers for use in increasing production, the association has as its objective the betterment of the condition of those engaged in agricultural pursuits. Members of the association receive individual benefits when the computer center sends them the test results for their cows. However, these benefits are incidental to the objectives of the program as a whole and are not inconsistent with those objectives. Accordingly, the association is exempt from Federal income tax under section 501(c)(5) of the Code.

Rev. Rul. 70-372, 1970-2 C.B. 118, holds that an organization of agricultural producers whose sole activity is to process milk production records for the benefit of the individual producers who are members is not exempt from Federal income tax under section 501(c)(5) of the Code. In that Revenue Ruling the organization was not part of the National Cooperative Dairy Herd Improvement Program and sent its data only to members. The organization benefitted only its own members and not dairymen in general. Rev. Rul. 70-372 is hereby clarified and distinguished.